

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

Property Tax Bureau
Informational Guideline Release No. 92-207
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APPORTIONMENT OF TAXES
Chapter 133, S. 386 of the Acts of 1992
(Amending G.L. Ch. 59, S. 78A)

SUMMARY:

This legislation amends General Laws Chapter 59 §78A, which allows assessors to apportion unpaid property taxes when real estate has been divided by a recorded sale, mortgage, partition, transfer or other change in ownership. An apportionment allocates the taxes, as well as the personal liability and lien for those taxes, among the owners of the sub-portions of the original parcel. As a result, a person who buys or otherwise becomes the owner of a part of a parcel can pay the portion of the tax attributable to his or her property and prevent the property from being taken or sold for nonpayment of taxes in the event the original tax on the entire undivided parcel is not paid in full.

A tax apportionment between the assessed owner of a parcel and a subsequent owner of a part of that parcel may now be made where the sale or transfer dividing the property occurs after the January first assessment date. Previously, the division had to occur after taxes had been committed for the year.

GUIDELINES:

A. Requirements for Apportionment

Assessors may apportion taxes assessed on a parcel for a fiscal year only where:

1. The parcel was divided by a sale, mortgage, partition, transfer or other change in ownership after January first of that year.

A subdivision of a parcel after January first, such as the approval of a subdivision plan or recording of a master deed or other plan, without a change in ownership of any portion of the original parcel, is not sufficient.

2. The division is recorded at the Registry of Deeds.
3. The tax has not been paid in full.
4. The parcel is not in tax title, nor has it been advertised for a sale or taking by the collector.

B. Request for Apportionment

The owner or mortgagee of any portion of the original parcel must request an apportionment in writing. If property is divided and no request for an apportionment is made, the assessors may apportion the tax on their own, but they are under no obligation to do so or to notify any new owner of any right to an apportionment he or she may have.

- C. Allocation Procedure If requested to make an apportionment, the assessors must allocate the outstanding tax, interest and collection charges between the requesting owner and the assessed owner of the original parcel. This allocation should also include all outstanding taxes assessed as of any January first prior to the division. For example, if the division occurred on February 1, 1992, and an apportionment of FY93 taxes is requested, the assessors should also apportion any outstanding taxes, interest and charges, for fiscal years prior to FY93.

The assessors are not required to allocate the outstanding amounts among any other subsequent owners of portions of the original parcel, although it is recommended they do so to minimize subsequent requests. For example, a parcel is

subdivided into 10 lots of which five are subsequently sold. The owner of one lot requests an apportionment. While the assessors need only apportion the tax between the requesting owner and the assessed owner of the original parcel, they should apportion it among all six owners.

The allocation is to be made in the same ratio as the value of the sub-parcel bears to the original parcel. For example, the requesting owner purchased one acre of a five acre parcel and that acre represents one half of the value of the original parcel. The assessors would divide the outstanding taxes, interest and charges equally between the requesting and assessed owners. Payments previously made by the assessed or any other owner toward the original assessed tax are not considered. The parties are responsible for making appropriate arrangements at the closing or otherwise for adjusting or prorating any previously made payments-

D. Timing of Apportionment

Assessors may receive a request for an apportionment before the actual commitment of the tax for the year. In that case, the assessors should make the apportionment as soon as possible after commitment and billing. If a semiannual or quarterly preliminary tax has been assessed, the assessors should apportion the preliminary tax and later apportion the actual tax once it is committed.

E. Notification of Apportionment

Before making the apportionment, the assessors must review registry records to determine all current record owners of any part of the original parcel. They must then mail notices of the apportionment to all owners ("Notice of Divided Assessment" State Tax Form 176) and submit the apportionment to the collector ("Notice of Apportionment on Real Estate" State Tax Form 175). Because of the extremely short appeal period (See Section F below), the notices to the owners should be mailed prior to, but no later than, the date the apportionment is made and sent to the collector. The notice of apportionment sent to the collector should include not only the description of the divided parcels, but the new parcel identification numbers to be used by the collector for creating separate accounts for those parcels.

F. Appeal of Apportionment

The apportionment may be contested by any owner by filing an appeal with the appellate tax board or county commissioners within seven days of the apportionment. G.L. Ch. 59 §81.

G. Apportionment of Tax Title

If the assessors are requested to apportion taxes on a parcel in tax title, or for which the collector has advertised a tax sale or taking, the assessors should inform the requesting owner that a petition must be brought in Land Court to apportion the taxes and obtain a partial redemption. G.L. Ch. 60 §76A. That petition may be filed any time prior to the time the municipality petitions for foreclosure of the right of redemption. G.L. Ch. 60 §76. If a petition is filed seeking partial redemption, the collector should ensure that all subsequent taxes have been certified into the tax title account.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

P.O. Box 9655, Boston, MA 02114-9655 (617) 626-2300
